



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree under the Clean Water Act

On November 17, 2021, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of West Virginia in the lawsuit entitled *United States and the State of West Virginia by and through the West Virginia Department of Environmental Protection v. Berkeley County Public Service Sewer District and Berkeley County Public Service Storm Water District*, Civil Action No. 3:21-CV-179.

This is a civil action for injunctive relief and civil penalties brought against the Berkeley County Public Service Sewer District (the “Sewer District”) pursuant to Sections 309(b) and (d) of the Clean Water Act (“CWA”), 33 U.S.C. 1319 (b) and (d); and Chapter 16, Article 1, Section 9a of the West Virginia Code, W. Va. Code 16-1-9a. The claims are based on violations of the CWA and the West Virginia Water Pollution Control Act (“WPCA”) in connection with the Sewer District’s ownership and operation of sewage collection systems, a pretreatment plant and multiple wastewater treatment plants, and a municipal separate storm sewer system (“MS4”) in Berkeley County, West Virginia. The Berkeley County Public Service Storm Water District (“Storm Water District”) is included as a party to implement injunctive relief measures, because it has taken over operation of the MS4 from the Sewer District.

Under the consent decree, the Sewer District will implement: comprehensive performance evaluations, corrective action plans, and standard operating procedures for certain treatment plants; a sewage collection systems inspection and maintenance program; pump station compliance requirements; a fats, oil, and grease public education program; and an asset management software system designed to record and track each asset through its life cycle. The Storm Water District will develop and implement an MS4 Manual detailing general programmatic requirements and including plans for implementing measures to ensure compliance with the MS4 Permit. Both Defendants will implement regular training programs. In addition, the Sewer District will pay a civil penalty of \$432,000 to the United States and \$86,400

to the West Virginia Department of Environmental Protection, and will complete a state supplemental environmental project which will ensure treatment of sewage from two facilities that regularly operate in noncompliance with the West Virginia Water Pollution Control Act.

A federal register notice opening a period for public comment on the proposed consent decree was published on November 23, 2021. 86 FR 66590 (Nov. 23, 2021). The Justice Department website referenced in the federal register notice did not provide a link to the relevant complaint and consent decree until November 29, 2021. To ensure a complete comment period, the publication of this second notice opens a new period for public comment on the proposed consent decree.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of West Virginia by and through the West Virginia Department of Environmental Protection v. Berkeley County Public Service Sewer District and Berkeley County Public Service Storm Water District*, D.J. Ref. No. 90-5-1-1-11893. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611

Washington, D.C. 20044-7611

Please enclose a check or money order for \$24.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$16.75.

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